

Written Testimony For Information: Senate Interim Committee on CON August 30, 2006

My name is Bruce Hillis. I am here representing Missouri First, advocates for “Liberty” for the marketplace.

Economist Adam Smith whose writings greatly influenced our founders on theories of commerce as they crafted a limited federal government was a great promoter of ‘FREE MARKETS’. He published his “Wealth of Nations in 1776”, the same year that Thomas Jefferson wrote our Declaration of Independence. One of my favorite quotes of Adam Smith applies particularly well to the subject of Certificate of Need and I quote: **“It is the highest impertinence and presumption therefore in Kings and Ministers to pretend to watch over the economy of private people and to restrain their expense. Let them look after their own expense and they may safely trust private people with theirs.”** The Certificate of Need law is little more than “Kings and Ministers” pretending to restrain the expenses of government by watching over the economy of private people.

It is a great motive for agencies of the state to attempt to restrain the costs of government but this should be accomplished by restraining government’s appetite and by practicing prudent purchasing not by “watching over the economy of private people, including health care providers, by restraining their expense”. To be a prudent purchaser – the state need not be a force in the market place to **“address community needs, promote economic value, negotiate competing interest and prevent unnecessary duplication”**. These are quoted examples of the “interventionist” objectives of the Missouri Health Facilities Review Committee openly posted on their web page.

The Certificate of Need law is one of government’s most detrimental interventions in the Free Market. It stifles innovation, it protects inefficiency and it promotes sloth. It was designed by the federal government to limit “excess” competing services in an attempt to protect the allocation of grants and financing programs under the old Hilburton plan. Another flawed government concept based on “junk science”. Like many federal government programs, the “ratchet effect” of CON lives on – now as a state program. In addition to its detrimental impact to ‘FREE MARKETS’ it is also a costly bureaucratic process. The words of Thomas Jefferson in the Declaration of Independence in which he cited many of the encroachments of King George upon the liberty of the Colonials, to justify our separation from England, could be used to day to describe the bureaucratic impact of CON: “He has erected a multitude of new offices and sent hither swarms of officers to harass our people, and eat out their substance.” If he could just see us now!

CON also promotes monopolies and cartels that limit “cost reductions brought about in an environment of open competition”, as Dr. Roy Cordato explains in his essay “THE CON GAME: its Time to Repeal Hospital Certificate-of-Need Laws” contained in the recently published book: “What States Can Do to Reform Health Care: A Free-Market Primer”, Dr. Cordato explains, “If you like OPEC you’ll love CON.”

As earlier indicated, CON is one of the most detrimental interventions by government on ‘FREE MARKETS’. It is not the only detrimental intervention. As you carefully consider the elimination of Certificate of Need for hospitals or other health services, I trust that you will also evaluate the impact of remaining intervention features of government on these health services. Like regulation of the price system (via reimbursement plans) and other items that affect the free market, which may, once CON is lifted, cause great harm when providers are suddenly unable to compete due to inequitable reimbursement pricing systems or government imposed limitations or restrictions on their offerings of services. I don’t necessarily content that government should “level” the playing field - just take no action on the “rules” of play that prevent fair and open competition. For Free Markets to truly exist the following three conditions must be present: 1. Customer defined expectations of care 2. A freely-functioning price system; and, 3. Open competition.

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Attachment: “What States Can Do to Reform Health Care: A Free-Market Primer”